

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DALE HEATON,)	
)	
Petitioner,)	
)	
vs.)	Case No. 05-CV-199-JHP-FHM
)	
OKLAHOMA COUNTY; and)	
STATE OF OKLAHOMA,)	
)	
Respondents.)	

ORDER

On April 11, 2005, Petitioner, appearing *pro se*, submitted for filing a petition for writ of habeas corpus (Dkt. # 1). By Order filed April 14, 2005 (Dkt. # 3), the Court determined that this matter would be adjudicated as a § 2241 petition for writ of habeas corpus. Petitioner was advised that each claim raised in the petition had to be presented to the state courts of Oklahoma in order to satisfy the exhaustion requirement applicable to habeas corpus claims. Petitioner was ordered to file, by May 12, 2005, a response informing the Court of his efforts, if any, to exhaust available state remedies.

By Order filed April 28, 2005 (Dkt. # 5), the Court denied Petitioner's motion for leave to proceed *in forma pauperis*, as supplemented, and ordered Petitioner to pay the \$5.00 filing fee required to commence this action. In that Order, Petitioner was reminded of his obligation to file a response addressing his efforts to exhaust state remedies as previously ordered. In both of the Court's Orders, Petitioner was warned that "[f]ailure to comply with this Order may result in the dismissal of this action without prejudice and without further notice." See Dkt. #s 3 and 5.

On May 10, 2005, Petitioner paid the \$5.00 filing fee as ordered by the Court. However, to

date, Petitioner has not filed his response demonstrating his efforts to exhaust state remedies. The deadline of May 12, 2005, has passed. No correspondence addressed to Petitioner has been returned to the Court. Because Petitioner has failed to comply with the Court's Orders of April 14, 2005, and April 28, 2005, the Court finds that this action may not proceed. The petition for writ of habeas corpus shall be dismissed without prejudice for lack of prosecution.

ACCORDINGLY, IT IS HEREBY ORDERED that this action is **dismissed without prejudice** for lack of prosecution.

SO ORDERED this 17th day of August 2005.



James H. Payne
United States District Judge
Northern District of Oklahoma